

# HOUSE BILL No. 1082

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-7-9.

**Synopsis:** Abandoned buildings. Provides that a "community organization" for purposes of the unsafe building law is an organization that has been incorporated for at least one year (instead of two years). Allows a civil action to be initiated before the final date of an order or an extension of an order requiring: (1) the completion; or (2) a substantial beginning toward accomplishing the completion; of the remedial action. Allows a community organization to initiate a civil action if the enforcement authority has filed a civil action regarding the unsafe premises.

**Effective:** July 1, 2009.

**Day**

January 7, 2009, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1082

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-7-9-2, AS AMENDED BY P.L.169-2006,  
2 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 2. As used in this chapter:

4 "Community organization" means a citizen's group, neighborhood  
5 association, neighborhood development corporation, or similar  
6 organization that:

7 (1) has specific geographic boundaries defined in its bylaws or  
8 articles of incorporation and contains at least forty (40)  
9 households within those boundaries;

10 (2) is a nonprofit corporation that is representative of at least  
11 twenty-five (25) households or twenty percent (20%) of the  
12 households in the community, whichever is less;

13 (3) is operated primarily for the promotion of social welfare and  
14 general neighborhood improvement and enhancement;

15 (4) has been incorporated for at least ~~two (2) years~~; **one (1) year**;  
16 and

17 (5) is exempt from taxation under Section 501(c)(3) or 501(c)(4)



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of the Internal Revenue Code.

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of metropolitan development, subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by the director is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.

"Known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser" means any fee interest, life estate interest, or equitable interest of a contract purchaser held by a person whose identity and address may be determined from:

- (1) an instrument recorded in the recorder's office of the county where the unsafe premises is located;
- (2) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); or
- (3) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.

"Known or recorded substantial property interest" means any right in real property, including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser, that:

- (1) may be affected in a substantial way by actions authorized by this chapter; and
- (2) is held by a person whose identity and address may be determined from:
  - (A) an instrument recorded in the recorder's office of the county where the unsafe premises is located;
  - (B) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); or
  - (C) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to

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identify information that is reasonably ascertainable.

"Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser.

SECTION 2. IC 36-7-9-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) The department, acting through its enforcement authority, a person designated by the enforcement authority, or a community organization may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. The department is not liable for the costs of such an action. The court may grant one (1) or more of the kinds of relief authorized by sections 18 through 22 of this chapter.

~~(b) A civil action may not be initiated under this section before the final date of an order or an extension of an order under section 5(c) of this chapter requiring:~~

~~(1) the completion; or~~

~~(2) a substantial beginning toward accomplishing the completion; of the required remedial action.~~

~~(c) (b)~~ A community organization may not initiate a civil action under this section if

~~(1) the enforcement authority or a person designated by the enforcement authority has filed a civil action under this section regarding the unsafe premises; or~~

~~(2) the enforcement authority has issued a final order that the required remedial action has been satisfactorily completed.~~

**However, this subsection does not prohibit a community organization from initiating a civil action under this section regarding any condition of the unsafe premises not covered by the final order.**

~~(d) (c)~~ A community organization may not initiate a civil action under this section if the real property that is the subject of the civil action is located outside the specific geographic boundaries of the area defined in the bylaws or articles of incorporation of the community organization.

~~(e) (d)~~ At least ~~sixty (60)~~ **thirty (30)** days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:

(1) specifies:

(A) the nature of the alleged nuisance;

(B) the date the nuisance was first discovered;

(C) the location on the property where the nuisance is

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1 allegedly occurring;  
2 (D) the intent of the community organization to bring a civil  
3 action under this section; and  
4 (E) the relief sought in the action; and  
5 (2) is provided to:  
6 (A) the owner of record of the premises;  
7 (B) tenants located on the premises;  
8 (C) the enforcement authority; and  
9 (D) any person that possesses an interest of record.  
10 ~~(f)~~ (e) In any action filed by a community organization under this  
11 section, a court may award reasonable attorney's fees, court costs, and  
12 other reasonable expenses of litigation to the prevailing party.

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